



February 9, 2005

HOUSE BILL No. 1736

DIGEST OF HB 1736 (Updated February 3, 2005 11:01 am - DI 97)

Citations Affected: IC 27-10.

Synopsis: Bail law amendments. Provides for reinstatement of an expired bail agent license or recovery agent license. Specifies educational requirements for bail agent and recovery agent licensure. Provides for approval of educational courses and instructors. Specifies requirements related to: (1) publication of a determination of the commissioner of the department of insurance concerning certain activities of a bail agent or recovery agent; and (2) appointment of a surety bail agent. Amends the law creating the bail bond enforcement and administration fund. Makes an appropriation.

Effective: July 1, 2005.

Ayres, Budak, Reske, Austin

January 19, 2005, read first time and referred to Committee on Insurance.
February 8, 2005, reported — Do Pass.

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HB 1736—LS 7457/DI 97+



February 9, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1736

A BILL FOR AN ACT to amend the Indiana Code concerning insurance and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 27-10-3-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) All licenses
3 issued expire two (2) years after the end of the month of issue based on
4 the schedule set forth in subsection (b) unless the licensee is on
5 probation or the licensee's license was revoked or suspended before
6 that date by the commissioner or upon notice served upon the
7 commissioner that the insurer or employer of any recovery agent has
8 canceled the licensee's authority to act for the insurer or employer.
9 (b) A license must be renewed under this article according to the
10 following schedule:
11 (1) A licensee whose last name commences with the letters A
12 through H shall renew a license before the last day of August
13 every other calendar year beginning August 1993.
14 (2) A licensee whose last name commences with the letters I
15 through R shall renew a license before the last day of September
16 every other calendar year beginning September 1993.
17 (3) A licensee whose last name commences with the letters S

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through Z shall renew a license before the last day of October every other calendar year beginning October 1993.

(c) A licensee who is issued a new license with not more than one (1) year remaining shall pay fifty percent (50%) of the fee set forth in section 4 of this chapter.

(d) A license that has expired may be reinstated if:

(1) the licensee:

(A) applies for reinstatement not more than ninety (90) days after the expiration date;

(B) is not on probation;

(C) has not previously been denied a license;

(D) pays:

(i) a pro rata part of the license fee required under section 7 of this chapter based on the renewal schedule set forth in subsection (b); plus

(ii) to the commissioner a license reinstatement fee of two hundred dollars (\$200); and

(E) meets all other requirements for licensure; and

(2) the license was not revoked or suspended at the time that the license expired.

SECTION 2. IC 27-10-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The application for license, in addition to the matters set out in section 1 of this chapter, to serve as a bail agent must affirmatively show that:

(1) the applicant is at least eighteen (18) years of age and is of good moral character;

(2) the applicant has never been convicted of a disqualifying offense, notwithstanding IC 25-1-1.1, or:

(A) in the case of a felony conviction, at least ten (10) years have passed since the date of the applicant's conviction or release from imprisonment, parole, or probation, whichever is later; or

(B) in the case of a misdemeanor disqualifying offense, at least five (5) years have passed since the date of the applicant's conviction or release from imprisonment, parole, or probation, whichever is later; ~~and~~

(3) the applicant has knowledge ~~or~~ experience ~~or~~ instruction in the bail bond business, or has held a valid all lines fire and casualty insurance producer's license for one (1) year within the last five (5) years, or has been employed by a company engaged in writing bail bonds in which field the applicant has actively engaged for at least one (1) year of the last five (5) years; **and**

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(4) the applicant has completed at least sixteen (16) hours of instruction in courses approved by the commissioner under section 7.1 of this chapter that pertain to the duties and responsibilities of a bail agent or recovery agent, including instruction in the laws that relate to the conduct of a bail agent or recovery agent.

(b) The application must affirmatively show that the applicant has been a bona fide resident of Indiana for one (1) year immediately preceding the date of application. However, the commissioner may waive this requirement.

SECTION 3. IC 27-10-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. In addition to the requirements prescribed in section 1 of this chapter, an applicant for a license to serve as a recovery agent must affirmatively show that:

- (1) the applicant is at least eighteen (18) years of age;
- (2) the applicant is a citizen of the United States and has been a bona fide resident of this state for more than six (6) months immediately preceding the date of application; ~~and~~
- (3) the applicant has never been convicted of a disqualifying offense, notwithstanding IC 25-1-1.1, or:

(A) in the case of a felony conviction, at least ten (10) years have passed since the date of the applicant's conviction or release from imprisonment, parole, or probation, whichever is later; or

(B) in the case of a misdemeanor disqualifying offense, at least five (5) years have passed since the date of the applicant's conviction or release from imprisonment, parole, or probation, whichever is later; **and**

(4) the applicant has completed at least sixteen (16) hours of instruction in courses approved by the commissioner under section 7.1 of this chapter that pertain to the duties and responsibilities of a bail agent or recovery agent, including instruction in the laws that relate to the conduct of a bail agent or recovery agent.

A license fee of three hundred dollars (\$300) and an examination fee of one hundred dollars (\$100) shall be submitted to the commissioner with each application, together with the applicant's fingerprints and photograph.

SECTION 4. IC 27-10-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. **(a)** A renewal license shall be issued by the commissioner to a licensee who:

- (1)** has continuously maintained a license in effect; ~~without~~

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further examination, unless deemed necessary by the commissioner, upon the payment of

(2) pays a renewal fee of:

(A) six hundred fifty dollars (\$650) for bail agents; and

(B) three hundred dollars (\$300) for recovery agents; if the licensee

(3) has fulfilled the continuing education requirement as required under subsection (b);

(4) satisfactorily completes a renewal examination if required by the commissioner; and

(5) has in all other respects complied with and been subject to this article.

(b) Except as provided in subsection (c), a licensee shall complete at least eight (8) hours of continuing education courses that:

(1) are approved under section 7.1 of this chapter; and

(2) apply to the licensee's particular license, including instruction in the laws that relate to the conduct of a bail agent or recovery agent;

during each license period. A continuing education course that is used to fulfill the continuing education requirements for an insurance producer license under IC 27-1-15.7 may not be used to satisfy the continuing education requirement set forth in this section.

(c) A licensee who, on the date the licensee applies for renewal of a bail agent or recovery agent license:

(1) is at least sixty (60) years of age; and

(2) has been a licensed bail agent or recovery agent for at least twenty-five (25) years;

is not required to comply with the continuing education requirements set forth in this section.

(d) After the receipt of the licensee's application for renewal, the current license continues in effect until the renewal license is issued, suspended, or denied for cause.

SECTION 5. IC 27-10-3-7.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.1. (a) A provider of courses required for licensure under sections 3 and 5 of this chapter or license renewal under section 7 of this chapter:

(1) must be a professional organization that is directly involved in the work of bail agents and recovery agents;

(2) shall obtain from the commissioner approval of the

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courses and instructors before the courses are conducted;
 (3) shall pay to the commissioner an annual fee of five hundred dollars (\$500); and
 (4) shall comply with any other requirements established by the commissioner.

(b) A provider described in subsection (a) may charge a reasonable fee for attendance at an approved course.

(c) A fee paid under subsection (a)(3) must be:

- (1) deposited in the bail bond enforcement and administration fund created under IC 27-10-5-1; and
- (2) used to implement this article.

(d) The commissioner shall:

- (1) establish criteria for approval or disapproval of instructors and courses required for:

- (A) licensure under sections 3 and 5 of this chapter; and
- (B) license renewal under section 7 of this chapter; and

- (2) approve or disapprove instructors and courses specified in subdivision (1);

that pertain to the duties and responsibilities of a bail agent and recovery agent, including instruction concerning the laws that relate to the conduct of a bail agent and recovery agent.

SECTION 6. IC 27-10-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) If, after investigation, the commissioner determines that a licensed bail agent or recovery agent has been guilty of violating any of the laws of this state relating to bail bonds or has committed any disqualifying offense, the commissioner shall, upon ten (10) days notice in writing to:

- (1) the bail agent or recovery agent; and
- (2) the insurer represented by the bail agent if a surety bail agent; accompanied by a copy of the charges of the unlawful conduct of the bail agent or the recovery agent, suspend the license of the bail agent or the recovery agent, unless on or before the expiration of the ten (10) days the bail agent or the recovery agent makes a written response to the commissioner concerning the charges.

(b) If, after the expiration of ten (10) days and within twenty (20) days after the expiration of the ten (10) days, the bail agent or the recovery agent fails to make a written response to the charges, the commissioner shall suspend or revoke the license of the bail agent or the recovery agent. If, however, the bail agent or the recovery agent files a written response denying the charges within the time specified, the commissioner shall call a hearing within a reasonable time for the purpose of taking testimony and evidence on any issue of facts made

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by the charges and answer.

(c) The commissioner shall give notice to:

(1) the bail agent or the recovery agent; and

(2) the insurer represented by the bail agent if a surety bail agent; of the time and place of the hearing. The parties may produce witnesses and appear personally with or without representation by counsel.

(d) If, following the hearing, the commissioner determines by a preponderance of the evidence that the bail agent or the recovery agent is guilty as alleged in the charges, whether or not convicted in court, the commissioner shall:

(1) revoke the license of the bail agent or the recovery agent; or

(2) suspend the bail agent for a definite period of time to be fixed in the order of suspension.

The commissioner may also levy a civil penalty against the bail agent or the recovery agent that is not more than ten thousand dollars (\$10,000).

(e) If the commissioner fails to publish the commissioner's determination concerning a bail agent's or recovery agent's guilt within thirty (30) days after the conclusion of a hearing under this section, the license of the bail agent or recovery agent is considered to have been revoked by the commissioner on the thirtieth day after the conclusion of the hearing.

SECTION 7. IC 27-10-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) An insurer who appoints a surety bail agent in Indiana shall give notice of the appointment to the commissioner along with a written application for license for the bail agent. All appointments are subject to the issuance of a license to the surety bail agent.

(b) If an insurer appoints a surety bail agent under subsection (a), the appointee shall submit to the commissioner an affidavit:

(1) on a form prescribed by the commissioner;

(2) signed by the appointee; and

(3) that states that the appointee does not owe premiums to a former insurer or an agency to which the appointee reported on behalf of a former insurer.

(c) An appointee shall provide a copy of an affidavit submitted under subsection (b) by certified mail to each of the appointee's former insurers or agents to which the appointee reported on behalf of a former insurer.

(d) Not more than ten (10) days after receiving a copy of an appointee's affidavit provided under subsection (c), a former insurer or agent that has knowledge that the affidavit is untrue

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may file a notice:

(1) with the:

(A) insurer that made the appointment under subsection

(a);

(B) agent to which the appointee reports on behalf of the insurer that made the appointment under subsection (a);

(C) appointee; and

(D) commissioner;

(2) that states under oath or affirmation that the appointee has failed to pay premiums due on bonds that were previously written by the appointee; and

(3) with supporting documentation.

(e) An insurer that receives a notice under subsection (d)(1)(A) shall immediately terminate the appointment.

(f) An appointee whose appointment is terminated under subsection (e) may be reappointed under subsection (a) only if the former insurer or the agent that filed the notice under subsection (d) certifies that all premiums due on bonds written by the appointee have been paid.

(g) An insurer that receives a notice filed under subsection (d)(1)(A) and an appointee that receives a notice filed under subsection (d)(1)(C) may, not more than ten (10) days after receiving the notice, file a petition with the commissioner seeking relief. The petition must state the ground for relief and the relief sought.

(h) If a petition is filed under subsection (g), the duty of the insurer to terminate the appointment under subsection (e) is stayed until the commissioner grants or denies the petition. The commissioner shall grant or deny the petition not more than thirty (30) days after the petition is filed.

~~(b)~~ (i) An insurer that terminates the appointment of a surety bail agent shall file written notice of the termination with the commissioner together with a statement that the insurer has given or mailed notice to the surety bail agent. The notice filed with the commissioner must state the reasons, if any, for the termination. Information furnished to the commissioner is confidential and may not be used as evidence in or a basis for any action against the insurer or any of the insurer's representatives.

SECTION 8. IC 27-10-3-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 21. The department may adopt rules under IC 4-22-2 to implement this chapter.**

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SECTION 9. IC 27-10-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) **The bail bond enforcement and administration fund is created.** All fees and penalties collected by the commissioner under this article shall be paid into ~~a dedicated the fund of the state treasury~~ to be utilized for the enforcement and administration of this article. ~~to be designated the bail bond enforcement and administration fund.~~ The fund shall be administered by the commissioner.

(b) Any ~~unexpended~~ balance remaining in the fund at the end of ~~the~~ **a state** fiscal year: ~~shall not lapse but shall remain exclusively~~

(1) does not revert to the state general fund; and

(2) remains appropriated and available solely for the enforcement and administration of this article.

Interest that accrues from these investments shall be deposited in the fund. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(c) Money in the fund is annually appropriated for the purposes described in this chapter.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred House Bill 1736, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

RIPLEY, Chair

Committee Vote: yeas 11, nays 0.

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